

1           \***-0139/P4.53\*** SECTION 309. 30.67 (4), (5) and (6) (b) of the statutes are  
2 amended to read:

3           30.67 (4) REPORTS CONFIDENTIAL. No report required by this section to be filed  
4 with the department ~~shall~~ may be used as evidence in any trial, civil or criminal,  
5 arising out of an accident, except that the department shall furnish upon demand of  
6 any person who has or claims to have made ~~such~~ a report, or upon demand of any  
7 court, a certificate showing that a specified accident report has or has not been made  
8 to the department solely to prove a compliance or a failure to comply with the  
9 requirement that ~~such~~ a report be made.

10           (5) TRANSMITTAL OF INFORMATION TO FEDERAL AND STATE AUTHORITIES. If any  
11 request for information available on the basis of reports filed pursuant to this section  
12 is ~~duly~~ made by an authorized official or agency of the U.S. federal government or  
13 of the state ~~which~~ that registered the boat involved or the state where the accident  
14 occurred, the department shall compile and furnish ~~such~~ the information in  
15 accordance with ~~such~~ the request.

16           (6) (b) In cases of death involving a boat in which the person died within 6 hours  
17 of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from  
18 the body of the decedent within 12 hours after his or her death, by the coroner or  
19 medical examiner, or by a physician so designated by the coroner or medical  
20 examiner or by a qualified person at the direction of the physician. All morticians  
21 shall obtain a release from the coroner or medical examiner prior to proceeding with  
22 embalming any body ~~coming under the scope~~ that is subject to the requirements of  
23 this section. The blood so drawn shall be forwarded to a laboratory approved by the  
24 state health officer for analysis of the ~~alcoholic~~ alcohol content of the blood specimen.  
25 The laboratory shall notify the coroner or medical examiner causing the blood to be

1 withdrawn shall be notified of the results of each analysis made and the coroner or  
2 medical examiner shall forward the results of each analysis to the state health  
3 officer. The state health officer shall keep a record of all examinations to be used for  
4 statistical purposes only. The cumulative results of the examinations, without  
5 identifying the individuals involved, shall be disseminated and made public by the  
6 state health officer. The department shall reimburse coroners and medical  
7 examiners for the costs incurred in submitting reports and taking blood specimens  
8 and laboratories for the costs incurred in analyzing blood specimens under this  
9 section.

10 **\*-0139/P4.54\* SECTION 310.** 30.675 (intro.) and (1) of the statutes are  
11 renumbered 30.675 (1g) and (1r) and amended to read:

12 30.675 (1g) The display on a boat or by a person of ~~an orange flag approximately~~  
13 ~~18 by 30 inches in size~~ a visual distress signal of a type approved by the U.S. coast  
14 guard under 33 CFR 175.101 to 175.140 shall indicate that such boat or person is in  
15 need of help.

16 (1r) ~~Insofar as~~ If it is possible without serious danger to the operator's boat or  
17 persons on board, the operator of a boat observing a distress signal shall render to  
18 the boat or person displaying the signal such assistance as ~~may be practicable and~~  
19 ~~necessary~~ is feasible to save the boat or person or to minimize any danger to them.

20 **\*-0139/P4.55\* SECTION 311.** 30.675 (2) of the statutes is amended to read:

21 30.675 (2) No person shall ~~may~~ display a ~~flag like that~~ distress signal described  
22 ~~in~~ under sub. (1) (1g) unless such person is in need of assistance to prevent bodily  
23 injury or destruction of property.

24 **\*-0139/P4.56\* SECTION 312.** 30.68 (title) and (2) of the statutes are amended  
25 to read:

1           **30.68 (title) Prohibited Boat operation.**

2           (2) NEGLIGENT OPERATION. No person may operate or use any boat, or  
3 ~~manipulate any water skis, aquaplane~~ engage in water skiing or a similar device  
4 upon activity on the waters of this state in a careless, negligent, or reckless manner  
5 so as to endanger ~~that person's life, property or person or~~ the life, or property ~~or of~~  
6 any person of another.

NOTE: "Manipulate" is replaced by "engage in" with no intention of making any change. "Water skiing or a similar activity" is defined in s. 30.50 by this bill. The last phrase of this provision is simplified to refer to "the life or property of any person". The reference to the "life" of a person refers to risks of both injury and death. The reference to "any person" simplifies the language while continuing to refer to the person operating or using a boat, water skis, or other device, any person on board the boat, as well as any other person.

7           \***-0139/P4.57\* SECTION 313.** 30.68 (3) (a) of the statutes is renumbered 30.68  
8 (3) and amended to read:

9           30.68 (3) OPERATION BY INCAPACITATED PERSON OR MINOR. No person in charge or  
10 control of a boat ~~shall~~ may authorize or knowingly permit the boat to be operated by  
11 any person who by reason of physical or mental ~~disability~~ incapacity is incapable of  
12 operating ~~such~~ the boat under the prevailing circumstances.

NOTE: This subsection is split into 2 subsections (see sub. (3m), below). Subsection (3) applies only to persons lacking the capability of operating a boat. This provision currently refers to physical or mental disability, but the title uses the word "incapacitated". The title suggests that this provision is meant to be broader than a narrow concept of physical or mental disability. This bill substitutes "incapacity" for "disability". Incapacity is broader than "physical or mental disability", as it could include any condition that has a bearing on the ability to operate a boat, such as physical strength or fatigue. The last phrase, "under the prevailing circumstances", makes it clear that the capacity to operate a boat under some conditions (e.g., in a sheltered bay) may not indicate a capacity to operate the boat under other conditions (e.g., on a wind-swept lake).

13           \***-0139/P4.58\* SECTION 314.** 30.68 (3) (b) to (d) of the statutes are renumbered  
14 30.68 (3m) (a) to (c), and 30.68 (3m) (a) and (c), as renumbered, are amended to read:

15           30.68 (3m) (a) No person under the age of 10 years may operate a motorboat.  
16 Persons at least 10 and less than 12 years of age may operate a motorboat only if they

1 are either accompanied in the boat by a parent or guardian or a person at least 18  
2 years of age designated by a parent or guardian. Persons at least 12 and less than  
3 16 years of age may operate a ~~motor of any horsepower~~ motorboat, but only if they  
4 are either accompanied by a parent or guardian or a person at least 18 years of age  
5 designated by a parent or guardian, or in possession of a certificate issued under s.  
6 30.74 (1). This paragraph does not apply to personal watercraft.

NOTE: The reference to a motor of any horsepower is deleted because none of the other provisions related to age of a motorboat operator related to horse power.

7 (c) A violation of par. (a) or (b) ~~or (e)~~ done with the knowledge of a parent or  
8 guardian shall may also be deemed a violation by the parent or guardian, ~~and~~  
9 ~~punishable under s. 30.80.~~

NOTE: "Shall" is replaced by "may" to provide discretion in citing a parent or guardian under the particular circumstances. "Also" is added so that the violation of requirements related to operation, leasing or rental of a motorboat or personal watercraft by a minor applies both to the minor and to the parent or guardian who knew of the violation. The current statute could be interpreted to mean that only the parent or guardian who knew of the violation is deemed to be in violation of the statute. The reference to the punishment under s. 30.80 is eliminated as unnecessary.

10 **\*-0139/P4.59\* SECTION 315.** 30.68 (3m) (title) of the statutes is created to read:

11 30.68 (3m) (title) OPERATION OF MOTORBOATS BY MINORS.

12 **\*-0139/P4.60\* SECTION 316.** 30.68 (4) (a) of the statutes is renumbered 30.68

13 (4) and amended to read:

14 30.68 (4) CREATING HAZARDOUS WAKE OR WASH. No person shall may operate a  
15 motorboat ~~so as to approach or pass~~ near another boat in ~~such a manner as to create~~  
16 that creates a hazardous wake or wash.

NOTE: The phrase regarding approaching or passing another boat is eliminated to make this provision broader. There does not appear to be a reason to limit it to these conditions of boat operation. Eliminating this phrase applies this regulation to all methods of motorboat operation, including operation in a circular course.

17 **\*-0139/P4.61\* SECTION 317.** 30.68 (4) (b) of the statutes is repealed.

NOTE: Current s. 30.68 (4) (b) creates a standard of strict liability for damage caused by the wake or wash from a motorboat. A defense is provided if the negligence of

the other person was the primary cause of the damage. This statute relates to private remedies and not to DNR enforcement. The special committee determined that such damage should be subject to a standard of ordinary negligence, and thus recommends repeal of this provision.

1       \***-0139/P4.62\*** SECTION 318. 30.68 (4m) (title) and (5) of the statutes are  
2 amended to read:

3       30.68 (4m) (title) ~~FACING~~ PERSONAL WATERCRAFT; FACING BACKWARDS.

4       (5) ~~OPERATING IN CIRCULAR~~ CIRCUITOUS COURSE. No person may operate a  
5 motorboat repeatedly in a circuitous course around any other boat, or around any  
6 person who is swimming, if ~~such~~ the circuitous course is within 200 feet of ~~such~~ the  
7 boat or swimmer; ~~nor shall any.~~

8       (5g) OPERATION NEAR SKIN DIVER OR SWIMMER. No person may operate a boat or  
9 water skier operate or approach and no person may engage in water skiing or a  
10 similar activity closer than 100 feet to any skin diver's flag or any swimmer unless  
11 the one of the following applies:

12       (a) The person is operating a boat that is part of the a skin diving operation or,

13       (b) The person is operating a boat that is accompanying the a swimmer, or  
14 unless physical conditions make compliance impossible.

15       \***-0139/P4.63\*** SECTION 319. 30.68 (5g) (c) of the statutes is created to read:  
16       30.68 (5g) (c) There is insufficient room for the person to operate the boat 100  
17 or more feet from the skin diver's flag or the swimmer and the boat is not being  
18 operated in excess of slow-no-wake speed.

NOTE: The current statute prohibits operation of a boat or use of water skis or similar devices within 100 feet of a skin diver's flag or a swimmer. An exception is provided for boats that are part of a skin diving operation or that are accompanying a swimmer. A further exception applies if "physical conditions" make compliance impossible. Presumably, this latter exception applies to narrow areas on a body of water (e.g., channels or rivers) or when swimming or skin diving occurs near a boat landing. The language of the current statute is clarified to better describe the latter exception with a reference to the available room to navigate. Further, in the latter exception, a requirement to operate at slow-no-wake speed is imposed for boats operating within 100

feet of a skin diver's flag or a swimmer pursuant to this exception. It should be noted that s. 30.70 prohibits diving in established traffic lanes.

1       **\*-0139/P4.64\* SECTION 320.** 30.68 (5m) of the statutes is renumbered 30.66  
2       (5) and amended to read:

3       30.66 (5) ~~TOWING SLOW-NO-WAKE; TOWING BY A PERSONAL WATERCRAFT.~~ A person  
4       may use a personal watercraft to tow a stranded or disabled boat if, during towing,  
5       the speed of the personal watercraft does not exceed slow-no-wake.

6       **\*-0139/P4.65\* SECTION 321.** 30.68 (6) of the statutes is amended to read:

7       30.68 (6) RIDING ON DECKS AND GUNWALES. No person operating a motorboat may  
8       ride or sit, or may allow any other person in the motorboat to ride or sit, on the  
9       gunwales, on tops of seat backs or sides, or on the decking over the bow of the boat  
10      in an unsafe manner while under way, unless ~~such~~ the person is inboard of guards  
11      or railings provided on the boat to prevent persons from being lost overboard.  
12      Nothing in this ~~section~~ subsection shall be construed to prohibit entry upon the  
13      decking over the bow of the boat for the purpose of anchoring, mooring, or casting off  
14      or other necessary purpose.

15      **\*-0139/P4.66\* SECTION 322.** 30.68 (7) (title) of the statutes is amended to read:

16      30.68 (7) (title) ~~RESTRICTED~~ SWIMMING AREAS AND REGULATORY MARKERS.

17      **\*-0139/P4.67\* SECTION 323.** 30.68 (7) of the statutes is renumbered 30.68 (7)  
18      (a) and amended to read:

19      30.68 (7) (a) No person ~~shall~~ may operate a boat within ~~a water~~ any area which  
20      that has been clearly marked by regulatory markers or buoys ~~or some other~~  
21      distinguishing device as a bathing ~~or~~ swimming area; ~~nor.~~

1           **(b) No person may** operate a boat in restricted use areas contrary to regulatory  
2 ~~notice pursuant to s. 30.74 (2). This subsection does not apply in the case of an~~  
3 ~~emergency, or to patrol or rescue craft markers.~~

NOTE: The deletion of “restricted use areas” clarifies that this provision applies to all regulatory markers, whether or not the regulatory marker designates a restricted use area. See s. 30.68 (14) for the general exception for patrol boats.

4           **\*-0139/P4.68\* SECTION 324.** 30.68 (8) and (8m) (a) of the statutes are amended  
5 to read:

6           **30.68 (8) ANCHORING IN TRAFFIC LANES.** No person may anchor, place, affix, or  
7 abandon any unattended boat, raft, float, or similar structure in the traveled portion  
8 of any river or channel or in any traffic lane ~~established and legally marked~~  
9 ~~designated by aids to navigation~~, so as to prevent, impede or interfere with the safe  
10 passage of any other boat ~~through the same~~.

11           **(8m) (a)** No person may use a mooring ~~or attach a boat to a mooring buoy~~ if the  
12 ~~mooring or mooring buoy~~ violates s. 30.772 or 30.773.

NOTE: “Attach a boat to a mooring buoy” duplicates the prohibition on use of a mooring. “Mooring” is defined in s. 30.01 (3e), when used as a noun, to mean “a mooring anchor and mooring buoy together with attached chains, cables, ropes and pennants and related equipment, unless the term is qualified or restricted”.

13           **\*-0139/P4.69\* SECTION 325.** 30.68 (8m) (c) of the statutes is created to read:  
14           **30.68 (8m) (c)** No person may attach a boat to any aid to navigation or  
15 regulatory marker, except to mooring buoys.

NOTE: The prohibition in new sub. (8m) (c) is moved to this location from s. 30.68 (12).

16           **\*-0139/P4.70\* SECTION 326.** 30.68 (9) and (11) of the statutes are amended to  
17 read:

18           **30.68 (9) OVERLOADING.** No person may operate, and no owner of a boat may  
19 allow a person to operate, a boat that is loaded with passengers or cargo beyond its

safe carrying capacity, taking into ~~consideration weather and other~~ account existing operating conditions.

(11) UNNECESSARILY SOUNDING WHISTLES HORNS; USE OF FLASHING LIGHTS. No person ~~shall~~ may unnecessarily sound a horn, whistle or other sound-producing device on any boat while ~~at anchor or under way~~ on the water. The use of a siren ~~or a light that resembles an emergency light specified under sub. (14) (a)~~ on any boat except duly authorized ~~a patrol boats on patrol or rescue~~ boat that is on duty is prohibited.

NOTE: "At anchor or underway" is replaced by "on the water" to make this prohibition broader. For example, the broader language would prohibit unnecessary sounding of a horn while a boat is tied to a dock. "Emergency light" is added to the prohibition on use of a siren.

\*-0139/P4.71\* SECTION 327. 30.68 (12) of the statutes is repealed.

NOTE: The prohibition on mooring or fastening a boat to aids to navigation or regulatory markers is deleted here and recreated in s. 30.68 (8m) (c), above.

\*-0139/P4.72\* SECTION 328. 30.68 (14) (title) of the statutes is created to read:

30.68 (14) (title) PATROL BOATS.

\*-0139/P4.73\* SECTION 329. 30.69 (title) of the statutes is amended to read:

30.69 (title) **Water skiing and similar activities.**

\*-0139/P4.74\* SECTION 330. 30.69 (1) (title) of the statutes is amended to read:

30.69 (1) (title) ~~PROHIBITED AT CERTAIN TIMES~~ PROHIBITIONS; EXCEPTIONS.

\*-0139/P4.75\* SECTION 331. 30.69 (1) (a) of the statutes is renumbered 30.69

(1) (a) (intro.) and amended to read:

30.69 (1) (a) (intro.) ~~Except as provided in par. (b), no~~ No person may operate do any of the following:

1. Operate a motorboat towing a person ~~on engaged in~~ engaged in water skis, aquaplane ~~or skiing or a similar devicee~~ activity unless there is in the boat a competent person



1 in addition to the operator ~~in a position to observe the progress of the person being~~  
2 ~~towed. An observer shall be considered competent if that person who is in a position~~  
3 ~~to observe, and can in fact observe, the person being towed and relay any signals to~~  
4 ~~the operator. This observer requirement does not apply to motorboats classified as~~  
5 ~~Class A motorboats by the department actually operated by the persons being towed~~  
6 ~~and so constructed as to be incapable of carrying the operator in or on the motorboat.~~  
7 ~~No person may engage~~

8 2. Engage in water skiing, aquaplaning or a similar activity, or operate a  
9 motorboat towing a person engaged in water skiing or a similar activity, at any time  
10 from sunset to sunrise. This restriction of the hours of water skiing does not prevent  
11 restrictions of the hours of water skiing between sunrise and sunset by local  
12 ordinances enacted pursuant to s. 30.77 (3).

NOTE: The reference to local ordinances is eliminated, and all provisions related to local ordinances will be consolidated in s. 30.77. It is proposed to expand this prohibition to apply to the motorboat operator as well as to the person engaged in water skiing or a similar activity.

13 **\*-0139/P4.76\* SECTION 332.** 30.69 (1) (b) of the statutes is renumbered 30.69

14 (1) (b) (intro.) and amended to read:

15 30.69 (1) (b) (intro.) Paragraph (a) 1. does not apply to ~~duly authorized water~~  
16 any of the following:

17 1. Water ski tournaments, competitions, exhibitions ~~or trials therefor, where~~  
18 adequate lighting is provided, or practice sessions that are authorized by a permit  
19 from a local governmental unit that enacts an ordinance under s. 30.77.

\*\*\*\*NOTE: This provision incorporates the treatment of s. 30.69 (1) (c) in the original legislative council draft that you thought was omitted from the R2 version of the LRB draft.

NOTE: The reference to “duly authorized” water ski tournaments and other activities is unclear. A specific reference to authorization by means of a permit from a local governmental unit that adopts ordinances under s. 30.77 is substituted for that phrase.

“Practice sessions” is substituted for “trials”. The meaning of “trials” is not clear, although one sense of that word is a preliminary competition. The special committee believes that the exemption from the observer requirement is widely understood to apply to all activities related to organized water ski activities, including practice sessions, and that the broader exemption from the observer requirement is appropriate, so the statute is redrafted accordingly.

Current s. 30.69 (1) (a) commences with “Except as provided in par. (b)”. That provision is recreated above in s. 30.69 (1) (c), with the omission of the reference to the provision of adequate lighting. It appears to be the intent of the current statute that the observer requirement does not apply to water ski tournaments, competitions, exhibitions or practice sessions under any circumstances.

1           **\*-0139/P4.77\* SECTION 333.** 30.69 (1) (b) 2. of the statutes is created to read:

2           30.69 (1) (b) 2. Motorboats less than 16 feet long that are operated by the person  
3 being towed and that are so constructed as to be incapable of carrying the operator  
4 in or on the motorboat.

5           **\*-0139/P4.78\* SECTION 334.** 30.69 (1) (bm) of the statutes is created to read:

6           30.69 (1) (bm) Paragraph (a) 2. does not apply to water ski tournaments,  
7 competitions, exhibitions, or practice sessions that are conducted under a permit  
8 from a local governmental unit that enacts an ordinance under s. 30.77 and for which  
9 adequate lighting is provided.

10          **\*-0139/P4.79\* SECTION 335.** 30.69 (1) (c) of the statutes is renumbered 30.69

11 (1) (b) 3. and amended to read:

12          30.69 (1) (b) 3. ~~In addition to complying with par. (a), no person may operate~~  
13 ~~a~~ A personal watercraft that is towing a person who is ~~on~~ engaged in water skis, ~~an~~  
14 ~~aquaplane~~ skiing or ~~a similar device~~ activity unless the personal watercraft is  
15 designed to seat at least 3 persons.

16          **\*-0139/P4.80\* SECTION 336.** 30.69 (2) of the statutes is amended to read:

17          30.69 (2) CAREFUL AND PRUDENT OPERATION. A person operating a motorboat  
18 having in tow a person ~~on water skis, aquaplane or~~ engaged in water skiing or a  
19 ~~similar device activity~~ shall operate ~~such boat~~ the motorboat in a careful and prudent

1 manner and at a reasonable distance from persons and property so as not to  
2 endanger the life or property of any person.

3 \***-0139/P4.81\*** SECTION 337. 30.69 (3) of the statutes is amended to read:

4 30.69 (3) RESTRICTIONS. (a) No person operating a motorboat that is towing  
5 persons a person engaged in water skiing, ~~aquaplaning~~ or a similar activity may  
6 operate the motorboat within 100 feet of any occupied, anchored boat, any personal  
7 watercraft, or any marked swimming area or public boat landing.

8 (b) No person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity  
9 may get come within 100 feet of a personal watercraft or allow the tow rope while in  
10 use to get come within 100 feet of a personal watercraft.

11 (c) 1. A motorboat towing a person who is engaged in water skiing, ~~aquaplaning~~  
12 or a similar activity.

13 2. The tow rope of a motorboat towing a person who is engaged in water skiing,  
14 ~~aquaplaning~~ or a similar activity.

15 3. A person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity.

16 (d) Paragraphs (a) to (c) do not apply to pickup or drop areas that are marked  
17 with regulatory markers and that are open to operators of personal watercraft and  
18 to persons and motorboats engaged in water skiing or a similar activity.

19 \***-0139/P4.82\*** SECTION 338. 30.69 (4) of the statutes is amended to read:

20 30.69 (4) INTOXICATED OPERATION. No person may use engage in water skis, an  
21 aquaplane skiing or a similar device activity while under the influence of an  
22 intoxicant to a degree which renders him or her incapable of safely using engaging  
23 in water skis, an aquaplane skiing or a similar device activity, or under the combined  
24 influence of an intoxicant and any other drug to a degree which renders him or her

1 incapable of safely using engaging in water skis, ~~an aquaplane~~ skiing or a similar  
2 device activity.

3 \***-0139/P4.83\*** SECTION 339. 30.70 of the statutes is renumbered 30.70 (1) and  
4 amended to read:

5 30.70 (1) No person may engage in ~~underwater diving or~~ swimming with the  
6 use of swimming fins or skin diving in waters other than marked swimming areas  
7 or within 150 feet of the shoreline, ~~and no~~ unless the location of the swimming or  
8 diving is marked by a diver's flag. No person may engage in ~~underwater~~ diving or  
9 swimming with the use of self-contained any underwater breathing apparatus in  
10 waters other than marked swimming areas, unless the location of such ~~such~~ the diving or  
11 swimming is distinctly marked by a diver's flag, ~~not less than~~.

NOTE: "Underwater diving" is eliminated and "skin diving" is retained. Skin diving appears to be a clear reference to all types of diving that do not involve the use of an underwater breathing apparatus.

12 (2) A diver's flag under sub. (1) shall consist of a flag that is 12 inches high and  
13 15 inches long, displaying and displays one diagonal white stripe 3 inches wide on  
14 a red background, and. The diver's flag shall be of a height above the water so as to  
15 be clearly apparent at a distance of 100 yards under normal conditions, and so  
16 designed and displayed as to be visible from any point on the horizon. Except in case  
17 of emergency, ~~anyone~~ no person engaging in ~~such~~ diving or swimming shall ~~not~~ that  
18 requires a diver's flag may rise to the surface outside of a radius of 50 feet from ~~such~~  
19 the diver's flag.

20 (3) No person engaged in such diving or swimming shall that requires a diver's  
21 flag may interfere with the operation of anyone fishing ~~nor or~~ engage in such diving  
22 or swimming in established traffic lanes; ~~nor shall any such person alone or with~~  
23 ~~another, intentionally or unintentionally, block or.~~ No person engaged in diving or

1 swimming that requires a diver's flag may obstruct any boat in any manner from  
2 proceeding to its destination in its course where ~~a~~ no reasonable alternative is  
3 ~~unavailable~~ available. A reasonable alternative ~~route~~ course is available when the  
4 otherwise unobstructed boat can ~~proceed to its destination~~ pass the diver's flag  
5 without reducing its lawful speed, by ~~passing to the right or to the left of a marked~~  
6 ~~diving operation~~ while complying with s. 30.68 (5g).

NOTE: This provision is modified to eliminate the requirement that the boat must be proceeding to its destination in order for the prohibition on obstructing the boat to apply. This makes the prohibition on obstructing a boat applicable to any legal course that the boat may take. The added reference to s. 30.68 (5g) is the newly numbered requirement for boats to remain at least 100 feet from a diver's flag.

7 **\*-0139/P4.84\* SECTION 340.** 30.71 (1) of the statutes is repealed.

NOTE: The definition of "outlying waters" duplicates the definition of that term in current s. 30.01 (4r).

8 **\*-0139/P4.85\* SECTION 341.** 30.73 (2) (a) of the statutes is amended to read:  
9 30.73 (2) (a) ~~Peace officers or rescue units engaged in emergency operations~~  
10 Patrol boat operators.

NOTE: See the exception for patrol boat operators in s. 30.68 (14), as renumbered from s. 30.64.

11 **\*-0139/P4.86\* SECTION 342.** 30.73 (4) of the statutes is repealed.

NOTE: Section 30.73 pertains to use regulations on the Brule River. Subsection (4) establishes a penalty by cross-reference to s. 30.80 (1). However, that cross-reference is unnecessary because s. 30.80 (1) provides that it establishes penalties for violation of ss. 30.50 to 30.80 for which a specific penalty is not provided elsewhere.

12 **\*-0139/P4.87\* SECTION 343.** 30.735 of the statutes is created to read:

13 **30.735 Tampering with navigation aids or regulatory markers.** No  
14 unauthorized person may move, remove, molest, tamper with, destroy, or attempt to  
15 destroy any aid to navigation or regulatory marker, sign, or other device established  
16 and maintained to aid boaters.

NOTE: This provision is currently part of s. 30.68 (12), which is repealed in this bill.

1           \***-0139/P4.88\*** SECTION 344. 30.74 (1) (c) and (d) of the statutes are amended  
2 to read:

3           30.74 (1) (c) A valid certificate issued by another state, as defined in s. 115.46  
4 (2) (f), or a province of Canada or the Canadian government that is held by a person  
5 ~~will~~ shall be honored if the course content substantially meets that established by  
6 the department.

NOTE: Canadian provinces no longer issue boating safety certificates. This is done  
by the Canadian government.

7           (d) The department shall also prepare and disseminate information on water  
8 safety to the public, including the informational pamphlets specified in s. 30.52 (5)  
9 (a) 4. and (b) 3.

10          \***-0139/P4.89\*** SECTION 345. 30.74 (2) (a) of the statutes is amended to read:

11          30.74 (2) (a) The department by rule shall establish uniform marking of the  
12 ~~water areas~~ waters of this state through the placement of aids to navigation and  
13 regulatory markers. These rules shall establish a marking system compatible with  
14 the system of aids to navigation prescribed by the U.S. coast guard ~~and shall give due~~  
15 ~~regard to the system of uniform waterway markers approved by the advisory panel~~  
16 ~~of state officials to the merchant marine council, U.S. coast guard.~~

17          **(bm)** No ~~municipality~~ local governmental unit that enacts an ordinance under  
18 s. 30.77 or person may mark the waters of this state in ~~any manner in~~ conflict with  
19 the marking system ~~prescribed~~ established by the department under par. (a). Any  
20 regulatory marker or aid to navigation that does not comply with this marking  
21 system is considered an unlawful obstruction to navigable waters and may be  
22 removed ~~in accordance with law~~ under s. 30.975.

(c) The department may not prohibit the placement of a regulatory marker or an aid to navigation if it complies with ~~this~~ the marking system established by the department under par. (a) and if it is being placed pursuant to an ordinance ~~that has been enacted in compliance with~~ under s. 30.77.

NOTE: The advisory panel is obsolete.

**\*-0139/P4.90\* SECTION 346.** 30.74 (2) (b) of the statutes is repealed.

NOTE: The definitions of these terms are deleted here and recreated as definitions in s. 30.50.

**\*-0139/P4.91\* SECTION 347.** 30.74 (3) of the statutes is amended to read:

30.74 (3) ENFORCEMENT. The department shall assist in the enforcement of ss. 30.50 to 30.80 ~~and in connection therewith.~~ The department may maintain patrol boats and may operate such the patrol boats at such times and places as the department deems necessary in the interest of boating safety and the effective enforcement of boating laws. An ordinance enacted under s. 30.77 does not apply to a patrol boat operated by the department if the patrol boat is engaged in a law enforcement activity.

NOTE: This allows wardens to more effectively patrol lakes and streams, primarily by avoiding the need to comply with extensive slow-no-wake ordinances.

**\*-0139/P4.92\* SECTION 348.** 30.742 of the statutes is renumbered 30.5005 (3).

**\*-0139/P4.93\* SECTION 349.** 30.77 of the statutes is repealed and recreated to read:

**30.77 Local regulation of boating.** (1) DEFINITIONS. In this section:

(a) "Footage of shoreline" means the length of shoreline in feet measured by use of a map wheel on the U.S. geological survey 7 1/2 minute map series.

(c) "State law" means this section, ss. 30.50 to 30.71, and those penalties under s. 30.80 that apply to ss. 30.50 to 30.71.

NOTE: SECTION 30.5005 (1) (b), as created by this bill, provides that a reference to a statute in any of the boating statutes also includes the rules promulgated under that statute. Thus, “state laws” includes the department of natural resources (DNR) boating rules.

1           (2) LOCAL REGULATION PROHIBITED; EXCEPTION. State laws shall be uniform in  
2           operation throughout the state. No local governmental unit may enact an ordinance  
3           on any matter pertaining to a state law except as provided under this section, or as  
4           provided under another statute that, by its express terms, and, notwithstanding this  
5           section, authorizes enactment of an ordinance by a local governmental unit.

NOTE: This first part of this subsection restates current law. See current s. 30.77 (1). The purpose of this provision is to establish the policy that state boating laws are intended to be uniform, and that the authorization of local regulation is within the context of this uniformity.

The provision regarding statutory authority other than s. 30.77 is new and states expressly what is the apparent intent of s. 30.77, that this statute is the exclusive authority for local regulation of boating equipment and operations, as well as other matters subject to regulation under this section, unless specific authority is provided elsewhere in the statutes.

6           (3) DUTIES OF THE DEPARTMENT. (a) *Assistance*. The department shall draft and  
7           disseminate model ordinances that meet the requirements of this section. The  
8           department shall consult with and assist local governmental units in enacting and  
9           enforcing ordinances that meet the requirements of this section.

NOTE: This provision creates a new requirement that DNR must prepare model ordinances and assist local governmental units in enforcing ordinances enacted by those governmental units.

10           (b) *Review of ordinances*. The department shall review ordinances as provided  
11           under sub. (10).

12           (4) JURISDICTION OF CERTAIN LOCAL GOVERNMENTAL UNITS. (a) *Cities, villages, and*  
13           *towns*. 1. A city, village, or town that has the entire shoreline of an inland lake within  
14           the boundaries of the city, village, or town may enact ordinances applicable to that  
15           lake.



1           2. A city, village, or town that has both banks of a stream within the boundaries  
2 of the city, village, or town may enact ordinances applicable to that portion of the  
3 stream that is within the boundaries of the city, village, or town.

NOTE: The current statute authorizes a town, village, or city to enact ordinances applicable to both lakes and streams “within its jurisdiction”. With respect to streams, the current statute does not clearly define the jurisdiction of a town, village, or city. This bill authorizes the town, village, or city to enact ordinances applicable to streams within its boundaries (i.e., the town, village, or city has territory on both banks of the stream). A later provision, in sub. (4) (e), provides that a town, village, or city that is adjacent to a stream may enact ordinances if the town, village, or city that is also adjacent to the stream (i.e., on the opposite shore) enacts the identical ordinance.

4           3. Notwithstanding pars. (b) 1. to 3. or (c) to (e), a city, village, or town may enact  
5 ordinances applicable to waters of this state that pertain to issues of local concern  
6 to that city, village, or town, as specified in sub. (5) (h). If there is a disagreement  
7 among local governmental units regarding the content of an ordinance enacted  
8 under this subdivision, or the priority of an ordinance enacted under this  
9 subdivision, as provided in sub. (7) (c), the matter may be submitted to the  
10 department for a determination.

NOTE: This provision is new. It authorizes ordinances that are of concern only to an individual town, village, or city. The provisions regarding priority of local governmental unit authority in sub. (7) (c) make it clear that a town, village, or city ordinance related only to local issues supersedes inconsistent provisions of any other ordinance applicable to the same body of water. The scope of these ordinances of local concern is limited by sub. (5) (h).

11           (b) *Counties*. 1. A county that has both banks of a stream within the county  
12 boundaries may enact ordinances applicable to that portion of the stream.

NOTE: “Stream” is used instead of “river or stream”, which is used in the current statute. There is not a substantive distinction between these 2 terms.

13           2. A county that has the entire shore of an inland lake within the county  
14 boundaries may enact ordinances applicable to that lake.

15           2g. A county ordinance enacted under subd. 2. is void if the ordinance is enacted  
16 with respect to a lake for which an ordinance is enacted under par. (a) 1., (c), or (d).

1           2r. A county ordinance enacted under subd. 2 with respect to a lake for which  
2 an ordinance has not been enacted under par. (a) 1., (c), or (d) is void if any of the  
3 following applies:

4           a. The entire shoreline of the lake is within the boundaries of a city, village, or  
5 town that adopts a resolution declaring the county ordinance void, and the city,  
6 village, or town files a copy of the resolution with the department.

7           b. At least 50% of the cities, villages, or towns with a portion of the shoreline  
8 of the lake within the boundaries of the city, village, or town adopt a resolution  
9 declaring the county ordinance void, a copy of the resolution is filed with the  
10 department, and at least 40% of the footage of shoreline of the lake is within the  
11 boundaries of those cities, villages, or towns.

NOTE: This provision is new. Counties have authority under the current statutes to enact ordinances related only to streams and county marina developments. This bill gives counties the authority to enact ordinances related to an inland lake if the entire shore of the inland lake is within the county boundaries. The county is not required to obtain authorization from the towns, villages, or cities bordering the lake. A county is not required to enact ordinances for all lakes, but rather may determine which lakes within the county merit regulation. Although not stated in the bill, it is obvious that one or more towns, villages, or cities bordering the lake may request the county to enact an ordinance.

Under the current statute, the primary authority to enact boating regulations, or to delegate authority to enact boating regulations, rests with the towns, villages, and cities. Although counties are given authority in this bill to enact boating ordinances, the preeminent authority of towns, villages, and cities is retained. If a town, village, or city enacts an ordinance applicable to a lake or adopts a resolution declaring the county ordinance void, the county ordinance is void with respect to that lake. Similarly, the towns, villages, or cities with concurrent jurisdiction of a lake may adopt a resolution declaring the county ordinance void, if the requisite number of municipalities do so, as provided in this bill. Finally, a town sanitary district or lake district that enacts an ordinance pursuant to authority granted by the towns, villages, or cities bordering a lake renders the county ordinance on that lake void.

12           3. A county may enact ordinances applicable to outlying waters that are  
13 contiguous to the county.

NOTE: The current statute authorizes a town, village, or city to enact ordinances applicable to "waters of this state within its jurisdiction". Municipal jurisdiction of outlying waters is determined by the municipal charter. It appears that there is some variability in jurisdiction, with the jurisdiction of some municipalities ending at the water's edge and others extending into the Great Lakes for varying distances. It does not appear that there is substantial reason for towns, villages, or cities to adopt boating

regulations on the Great Lakes other than in the near-shore areas. Therefore, this bill provides that counties may enact ordinances applicable to outlying waters. Towns, villages, and cities have authority in sub. (4) (a) 3. to enact ordinances of local concern on outlying waters, whether or not the county has adopted ordinances on those waters.

1           4. A county that operates a marina development adjacent to waters of this state  
2           may enact ordinances that relate to the development, operation, and use of the  
3           marina and the waters adjoining the marina.

4           (c) *Multiple cities, villages, and towns; inland lakes.* A city, village, or town may  
5           enact ordinances applicable to an inland lake if the city, village, or town has a portion  
6           of the shoreline of the lake within the boundaries of the city, village, or town and all  
7           of the following apply:

8           1. At least 50% of the cities, villages, or towns with a portion of shoreline of the  
9           lake within their boundaries enact an identical ordinance.

10          2. At least 60% of the footage of shoreline of the lake is within the boundaries  
11          of the cities, villages, and towns that enact an identical ordinance.

12          (d) *Town sanitary district or lake district.* A town sanitary district or public  
13          inland lake protection and rehabilitation district may enact ordinances applicable  
14          to an inland lake if at least 60% of the footage of the shoreline of the lake is within  
15          the town sanitary district or public inland lake protection and rehabilitation district  
16          boundary and all of the following apply:

17          1. At least 50% of the cities, villages, or towns with a portion of the shoreline  
18          of the lake within their boundaries adopt a resolution authorizing the town sanitary  
19          district or public inland lake protection and rehabilitation district to enact the  
20          ordinance.

21          2. At least 60% of the footage of shoreline of the lake is within the boundaries  
22          of the cities, villages, and towns that adopt the resolution.

1 (e) *Multiple cities, villages, towns, and counties; streams.* 1. A city, village, or  
2 town that is contiguous to a stream may enact ordinances applicable to any portion  
3 of the stream if each city, village, or town that is contiguous to that portion of the  
4 stream on the opposite bank enacts an identical ordinance.

5 2. A county that is contiguous to a stream may enact ordinances applicable to  
6 any portion of the contiguous stream if each county that is contiguous to that portion  
7 of the stream on the opposite bank enacts an identical ordinance.

NOTE: The current statute does not distinguish between streams within and streams contiguous to a county, town, village, or city. This bill makes that distinction, and requires identical ordinances in the latter case. (The requirement to adopt an identical ordinance is determined by the portion of the stream to which the ordinance applies.)

It should also be noted that the requirement for adopting identical ordinances with respect to a stream that is contiguous to a town, village, or city does not apply to the provision of this bill related to ordinances regarding local issues of concern only to the town, village, or city. See sub. (4) (a) 3., above.

8 (5) STRICT CONFORMITY AND CONSISTENCY; PROHIBITIONS. (a) *Ordinances*  
9 *authorized.* A local governmental unit may enact and enforce ordinances as provided  
10 under this subsection.

NOTE: The current statute, in several instances, authorizes a local governmental unit “to enact and enforce” ordinances. This phrase is not used consistently, and a number of other authorizations in the current statute refer only to “enacting” ordinances. Ordinarily, authority to enforce an ordinance would be implied by the authority to enact an ordinance. However, the jurisdiction of many local governmental units ends at the water’s edge, and the authority to enact ordinances under s. 30.77 is extraterritorial in some cases. This bill retains “enforce” with respect to ordinances in this general grant of authority to enact ordinances. The authority to enforce ordinances is intended to apply to any waters of the state for which the local governmental unit is authorized to enact ordinances.

11 (b) *Strict conformity required.* Ordinances that relate to the subject matter  
12 encompassed by ss. 30.61, 30.62, 30.65, 30.67, 30.675, 30.68 (3m) (a) and (b) and (14),  
13 30.681 to 30.687, and 30.71 shall be in strict conformity with these statutes.

NOTE: The current statutes provide that an ordinance may either be in strict conformity with or “not contrary to or inconsistent with” state law. The current statutes further provide that an ordinance which is “not contrary to or inconsistent with” state law must relate to “the equipment, use, or operation of boats or to any activity regulated by ss. 30.60 to 30.77”. The current statute does not provide sufficient guidance to determine which state laws require strict conformity, and which ones require consistency in the corresponding ordinances. Therefore, this bill simply lists the statutes that require strict

conformity in ordinances on the same subject. Any statute that meets the definition of a “state law” in this bill, and is not on this list, requires consistency in a corresponding ordinance, but may also be in strict conformity with the state law.

1           (c) *Ordinances consistent with state law.* Except for a state law that requires  
2 strict conformity under par. (b), every ordinance enacted by a local governmental  
3 unit under this section shall be at least consistent with state law if all of the following  
4 apply:

5           1. The ordinance is in the interest of public health, safety, or welfare, including  
6 the public’s interest in preserving the state’s natural resources.

7           2. The ordinance relates either to the equipment, use, or operation of boats or  
8 to any activity subject to a state law.

NOTE: Current s. 30.77 authorizes certain ordinances that are “not contrary to or inconsistent with” state law. “Consistent with” is substituted for that phrase in this bill. There does not appear to be any substantive difference between these phrases. “Consistent with” is used in the interest of clarity, without intending any change in the standard for ordinances.

9           (d) *Standards for consistency.* An ordinance is consistent with state law even  
10 if it varies from the specific provisions of state law if the ordinance achieves the same  
11 general objective as state law, allows free use of the waters of this state within the  
12 framework established by state law, and is a reasonable restriction on public rights  
13 in waters of this state. An ordinance that meets the standards for consistency in this  
14 paragraph is not inconsistent with state law solely because the ordinance establishes  
15 standards that are more restrictive than the state law.

NOTE: This provision creates standards regarding what is meant by “consistency” between ordinances and state law. The effect of this statutory standard is to create a framework for the DNR to make comments on the issue of consistency in its advisory review under sub. (10) in this bill, and to guide the decision of the hearing examiner under the objection procedures in sub. (11) of this bill.

The special committee recognizes that it is difficult to draft statutory standards regarding consistency that draw a clear line between ordinances that are consistent and ordinances that are not consistent with state law. The new statutory standards are intended to aid in the discussion and adjudication of these issues.

1           (e) *Considerations in enacting ordinances.* In enacting an ordinance for an  
2 individual body of water, a local governmental unit may take into account factors  
3 that include the following:

4           1. The type, size, shape, and depth of the body of water and any features of  
5 special environmental significance that the body of water has.

6           2. The amount, type, and speed of boating traffic on the body of water and  
7 boating safety and congestion.

8           3. The degree to which boating traffic on the body of water affects other  
9 recreational uses and the public's health, safety, and welfare, including the public's  
10 interest in preserving the state's natural resources.

11          (f) *Specific ordinances authorized.* Ordinances that require strict conformity  
12 under par. (b) include those that relate to any of the following:

13           1. Restrictions on speed.

14           2. Restrictions on certain types of boating activities on all, or on specified parts,  
15 of the lake or stream.

16           3. Restrictions on certain types of boating activities during specified hours of  
17 the day or specified days of the week.

18           4. The operation, equipment, use, and inspection of boats carrying passengers  
19 for hire that operate from a base within the jurisdiction of the local governmental  
20 unit, including the regulation of reasonable fees for the inspection of such boats.

21           5. Reasonable fees for using a public boat launching facility that the local  
22 governmental unit owns or operates.

23           6. Reasonable fees for the local governmental unit's costs for operating or  
24 maintaining a water safety patrol unit, as defined in s. 30.79 (1) (b) 2.

1           7. Reasonable fees for the local governmental unit's costs of providing other  
2 recreational boating services.

NOTE: The provision regarding fees for "other recreational boating services" retains current law. The special committee discussed the possibility of repealing or modifying this provision, but decided against making changes. The special committee acknowledges that although the current statute authorizes "reasonable" fees, a fee related to boating that might be reasonable for purposes of the police power may nevertheless exceed the bounds of the public trust in navigable waters under art. IX, s. 1, Wis. const. However, the special committee concluded that local governments should have the opportunity to impose reasonable fees that do not violate the public trust, and that the statute should continue to allow this.

3           (g) *Prohibitions.* 1. An ordinance may not require numbering, registration, or  
4 licensing of boats.

5           2. An ordinance may not charge a fee for inspection of boats, except as provided  
6 in par. (f) 4.

7           (h) *Cities, villages, and towns; issues of local concern.* A city, village, or town  
8 may enact ordinances under sub. (4) (a) 3. that relate only to establishing  
9 slow-no-wake zones and prohibiting boats from designated areas and that apply  
10 only within the following areas:

11           1. A mooring area designated under s. 30.773 by the city, village, or town.

12           2. A bridge, dam, channel, canal, or other similar hazard to navigation that is  
13 within the corporate limits of the city, village, or town.

14           3. Any construction project that requires a permit under subch. II or ch. 31 and  
15 either is undertaken by the city, village, or town or is within the corporate limits of  
16 the city, village, or town.

17           4. A marina that is either owned by the city, village, or town or is within the  
18 corporate limits of the city, village, or town.

19           5. An area that is within 200 feet from any riparian property or lake bed that  
20 is owned by the city, village, or town.

1           6. An area within a breakwater that is adjacent to the city, village, or town.

2           7. A harbor that is within the corporate limits of the city, village, or town.

3           **(6) RESCINDING AUTHORITY TO ENACT ORDINANCES.** (a) *Multiple cities, villages,*  
4 *and towns.* If a city, village, or town enacts an ordinance for an inland lake under  
5 sub. (4) (c) and the city, village, or town amends or repeals the ordinance, that  
6 ordinance is void for each city, village, or town with shoreline on the inland lake  
7 unless the requirements of sub. (4) (c) 1. and 2. continue to apply.

8           (b) *Delegated jurisdiction.* If a public inland lake protection and rehabilitation  
9 district or town sanitary district is authorized to enact ordinances for an inland lake  
10 under sub. (4) (d) and a city, village, or town rescinds the resolution that grants that  
11 authority, the public inland lake protection and rehabilitation district or town  
12 sanitary district may not enact ordinances for that inland lake and any ordinance  
13 enacted by the public inland lake protection and rehabilitation district or town  
14 sanitary district for that inland lake is void, unless the requirements of sub. (4) (d)  
15 1. and 2. continue to apply.

16           **(7) PRIORITY OF ORDINANCES.** (a) *Counties.* 1. An ordinance enacted by a county  
17 for a stream under sub. (4) (b) 1. or (e) 2. supersedes any provision of an ordinance  
18 enacted by a city, village, or town for a stream under sub. (4) (a) 2. or (e) 1. that is  
19 inconsistent with the county ordinance.

20           2. An ordinance enacted by a county for a marina under sub. (4) (b) 4.  
21 supersedes any provision of an ordinance enacted by another local governmental  
22 unit that is inconsistent with the county ordinance.

23           (b) *Town sanitary districts and lake districts.* An ordinance enacted by a public  
24 inland lake protection and rehabilitation district or a town sanitary district for an  
25 inland lake under sub. (4) (d) supersedes any provision of an ordinance enacted by



1 a city, village, or town under sub. (4) (a) 1. or (c) that is inconsistent with the public  
2 inland lake protection and rehabilitation district or town sanitary district ordinance.

3 (c) *Cities, villages, or towns; ordinances of local concern.* An ordinance enacted  
4 by a city, village, or town for any waters of this state under sub. (4) (a) 3. supersedes  
5 any provision of an ordinance enacted under sub. (4) (b) 1. to 3. and (c) to (e) that is  
6 inconsistent with the city, village, or town ordinance under sub. (4) (a) 3.

7 (8) POSTING ORDINANCES. All ordinances enacted under this section applicable  
8 to a lake or stream shall be prominently posted by the local governmental unit that  
9 enacted them at each point of public access to the lake or stream within the local  
10 governmental unit. For ordinances enacted under sub. (4) (c), the ordinances shall  
11 be posted by each local governmental unit at any point of public access to the lake  
12 or stream within the boundaries of that local governmental unit.

13 (9) HEARINGS. (a) *Ordinances.* A local governmental unit shall hold a public  
14 hearing under this subsection before enacting, amending, or repealing an ordinance.

15 (b) *Resolutions.* A local governmental unit shall hold a public hearing under  
16 this subsection before rescinding a resolution that is adopted under sub. (4) (d).

17 (c) *Procedures.* 1. A public hearing under this subsection shall be held at least  
18 30 days before an ordinance is enacted, amended, or repealed or a resolution is  
19 rescinded. If the action on an ordinance or resolution is proposed by more than one  
20 local governmental unit, the local governmental units may publish the notice and  
21 conduct the public hearing jointly.

22 2. At least 30 days before the public hearing, a local governmental unit shall  
23 publish a class 1 notice, under ch. 985, of the hearing under this subsection in one  
24 or more newspapers likely to give notice of the hearing in all cities, villages, towns,  
25 and counties that have shoreline of the lake or stream within their boundaries.